



An
Bord
Pleanála

Board Direction
BD-005239-20
ABP-305844-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/02/2020.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) The location of the site close to Shankill on lands largely zoned Objective A1' which seeks 'to provide for new residential communities in accordance with approved LAP's as set out in the Dun Laoghaire Rathdown Development Plan 2016,
- (b) the policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016,
- (c) the policies and objectives set out in the Shanganagh Woodbrook Local Area Plan 2017
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (g) the Guidelines for Planning Authorities on Sustainable Residential

Development in Urban Areas, 2009

- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (i) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area,
- (n) the submissions and observations received, and
- (o) the report of the Inspector

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Information for Screening for Appropriate Assessment Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded

that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted in support of the planning application;
- (c) The submissions from the planning authority, the observers and the prescribed bodies in the course of the application; and
- (d) The Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Population and human health impacts mitigated by appropriate construction and operational management plans
- Biodiversity impacts mitigated by appropriate management plans; lighting sensitivity; additional planting/landscaping and appropriate work practices

- Land, soil and geology impacts mitigated by construction management measures including minimal removal of topsoil and subsoil; management and maintenance of plant and machinery; dust suppression measures.
- Water impacts to be mitigated by management of surface water run-off during construction while operational impacts are to be mitigated by surface water attenuation to prevent flooding.
- Landscape and Visual impacts mitigated appropriate best practice construction site management and by proposed landscaping.
- Cultural Heritage (Archaeology) impacts mitigated by archaeological monitoring of ground disturbance works
- Climate (Air Quality and Climate Change) impacts mitigated by dust minimisation plan
- Material Assets (Transportation) impacts mitigated by the management of construction traffic; Construction and Environmental Management Plans
- Air (Noise and Vibration) impacts mitigated by adherence to requirements of relevant code of practice.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - i. The reservation for the future provision of the East Coast Cycle Trail along the eastern side of the rail line, south of the bridge over the rail line. The reservation shall be of adequate width (4m+) to achieve a Level A quality of service and shall connect to the path and associated reservation indicated north of the bridge over the rail line, as shown on Site Plan (Site Plan 3 of 4) Drawing No. 1618-OMP-00-00-DR-A-11002, or as otherwise agreed with the planning authority
 - ii. All ground floor apartments shall have floor to ceiling height of minimum 2.7 metres
 - iii. Full details of proposed green roofs
 - iv. The proposed childcare facility and its associated open space shall be increased to accommodate approximately 148 childcare no. full-time equivalent children. This may involve the relocation of the proposed facility from its current proposed location and may result in the loss of some residential units. Exact details to be agreed in writing with the planning authority, prior to the commencement of any development on site.

Reason: In the interests of proper planning and sustainable development and to safeguard the amenities of the area

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

4. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. Mitigation and monitoring measures outlined in the plans and particulars, including Chapter 19, "Summary of Mitigation Measures" of the Environmental Impact Assessment Report, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of protecting the environment and public health

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the

compound for storage of plant and machinery and the location for storage of deliveries to the site

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7 Standard EV Condition

8. The proposed new road junction layout on the Old Dublin Road to serve the proposed development shall comprise of Option 1, as submitted with this application. Any future changes to the access road junction and boundary arrangements shall be the subject of a further planning application to the Local Authority.

Reason: In the interests of road safety

9. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

10. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

(a) Specific trees, the removal of which is authorised in writing by the Planning Authority to facilitate the development

(b) Trees which are agreed in writing by the Planning Authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Reason: In the interests of amenity, ecology and sustainable development

11. Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species

Reason: In the interests of amenity, ecology and sustainable development

12. Mitigation and monitoring measures relating to biodiversity outlined in the plans and particulars submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. In this regard:

- a. The applicant shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist shall accompany this document for written agreement at least 5 weeks in advance of site clearance works
- b. The applicant shall appoint and retain the services of a qualified ecological consultant for the duration of the development. The consultant shall ensure that the mitigation measures recommended are implemented in full. In

particular, the consultant shall supervise the erection of bird nest boxes at secluded/unlit retained trees

- c. Removal of scrub, hedgerows and trees shall only take place outside the bird breeding season (March 1st- August 31st)
- d. All mature trees proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist. If required, an NPWS derogation licence shall be obtained. An operational stage tree management plan for bats shall also be submitted.
- e. The applicant shall appoint a bat ecologist to carry out a bat survey, during the appropriate period, prior to commencement of development on site and to determine if a derogation licence for bats would be required. The bat survey shall include a range of trees and buildings by several surveyors on several nights. The bat ecologist shall also review the engineer's lighting plan for the development and make such recommendations for adjustments to the plan as necessary to mitigate light spill on feeding bat habitats
- f. After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification
- g. Prior to the commencement of on-site works, the applicant shall submit for the written agreement of the planning authority, a Badger Conservation Plan, covering both the development site and the sett found in the northern part of the Woodbrook Residential Area. The plan shall have prior agreement of the NPWS. The applicant shall also submit a copy of any licence to disturb badgers issued by the NPWS under section 23 of the Wildlife Act 1976, as amended
- h. Prior to the commencement of on-site works, the applicant shall submit for the written agreement of the planning authority details of an assessment undertaken of any potential negative impacts on otters frequenting the

Woodbrook/River Allies Stream which may result from the proposed development. Details of this assessment shall be agreed in advance with the NPWS

- i. Prior to the commencement of on-site works, the applicant shall submit for the written agreement of the planning authority details of an assessment undertaken of any potential negative impacts on the petrifying springs present in the coastal cliffs in Shanganagh and Cork Little Townlands, Co. Dublin and within Killiney Bay (Bray Harbour to Killiney Station) pNHA which may result from the proposed development. Details of this assessment shall be agreed in advance with the NPWS
- j. Prior to the commencement of on-site works, the applicant shall undertake a breeding bird survey of the proposed development site for the written agreement of the planning authority and based on the findings, an appropriate tree and hedgerow management regime shall be drawn up to provide optimum nesting habitat in retained tree and hedgerows, including the location of nest boxes to be erected, type of nest box and proposed timeline for erection.

Reason: In the interest of protecting the environment and to address any potential impacts on biodiversity

13. Details of the materials, colours and textures of all the external finishes, including pavement and link finishes shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external

plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

15. Site development and building works shall be carried only out between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

16. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

19. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

20. A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

Reason: To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding

21. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity.

22. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development

23. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of the Commission for Railway Regulation in relation to this development.

Reason: In the interest of safety.

24. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of Inland Fisheries Ireland in relation to this development.

Reason: In the interest of safety.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory completion of the development.

26. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Note: In deciding not to accept the Inspectors recommendation to proceed with the Road Junction Option 2, the Board was satisfied that Option 1 represented the optimal solution in terms of tree protection and cyclist and pedestrian safety and would be in accordance with the proper planning and sustainable development of the area.

Board Member

Date: 25/02/2020

Paul Hyde